



**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C. 20554

**DA 07-4103**  
**Released: September 28, 2007**

ComCorp of Bryan License Corp.  
c/o Kevin P. Latek, Esquire  
Dow Lohnes, PLLC  
1200 New Hampshire Avenue, NW, Suite 800  
Washington, DC 20036

Re: Application for Consent to Transfer of Control  
KYLE(TV), Bryan, TX  
Fac. ID 60384  
File No. BTCCT-20070717ACZ

Dear Mr. Latek:

This is in reference to the above-captioned application for transfer of control of Comcorp of Bryan License Corp., licensee of KYLE(TV), Bryan, TX (Channel 28), from Shareholders of Communications Corporation of America, Inc. (Debtor-in-Possession) to SP ComCorp LLC ("SP ComCorp"). The application is unopposed. SP ComCorp requests authority to continue operating KYLE as a satellite of KWKT(TV), Waco, TX. For the reasons set forth below, we will grant the request for continuing satellite authority and grant the application for transfer of control of KYLE.

In *Television Satellite Stations*<sup>1</sup> the Commission established the requirement that all applicants seeking to transfer or assign satellite stations justify continued satellite status by demonstrating compliance with a three-part "presumptive" satellite exemption standard applicable to new satellite stations. The presumptive satellite exemption is met if the following three public interest criteria are satisfied: (1) there is no City Grade overlap between the parent and the satellite; (2) the proposed satellite would provide service to an underserved area; and (3) no alternative operator is ready and able to construct or to purchase and operate the satellite as a full-service station.<sup>2</sup> If an applicant does not qualify for the presumption, the Commission will evaluate the proposal on an *ad hoc* basis and grant the application if there are compelling circumstances that warrant approval.<sup>3</sup>

KYLE has been operating as a satellite of KWKT under authority first granted in 1996, and most recently continued in 2004.<sup>4</sup> SP ComCorp argues that it meets the presumptive criteria for continuing satellite authority.

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<sup>1</sup> 6 FCC Rcd 4212, 4215 (1991) (subsequent citations omitted).

<sup>2</sup> *Id.* at 4213-14.

<sup>3</sup> *Id.* at 4212.

<sup>4</sup> See *Letter to Communications Corp. of America*, April 19, 2004 ("2004 Satellite Waiver"); *Silent Minority Group, Inc.*, 11 FCC Rcd 15011 (1996) ("1996 Satellite Waiver").

First, according to SP ComCorp, the City Grade contours of KYLE and KWKT do not overlap.<sup>5</sup> Second, SP ComCorp states that KYLE also provides service to underserved areas. Under the “transmission test,” a proposed satellite community of license is considered “underserved” if two or fewer television stations (including commercial, noncommercial, and satellite stations) are already licensed to it.<sup>6</sup> Only one other television station is licensed to Bryan, Texas (KBTX-TV), and that station is itself operated as a satellite of KWTX-TV, the CBS Network affiliate in Waco, Texas.<sup>7</sup>

With regard to the third prong of the presumptive satellite waiver test, SP ComCorp points out that the Commission has recognized twice that the economic realities of the market make it unlikely that any alternative operator would be willing or able to operate KYLE as a stand-alone full-service station.<sup>8</sup> The original permittee of KYLE, Silent Minority Group, Inc., began operating the station as a stand-alone television station but quickly determined that it was financially unable to continue such operations.<sup>9</sup> It attempted to sell the television station on a stand-alone basis. After conducting considerable discussions with prospective buyers, however, it was unable to sell the station.<sup>10</sup> In 2004, the Commission recognized that the factors indicating that it was impossible to sell or operate KYLE as a stand-alone station remained persuasive.<sup>11</sup>

SP ComCorp maintains that these factors have not changed in the intervening three years and continue to make operation of KYLE as a full-service station impracticable. First, according to SP ComCorp, due to the large geographic expanse of the Waco-Temple-Bryan DMA, KYLE provides a viewable over-the-air signal to less than half of the geographic area of the market, and the station’s Grade B contour does not reach the two most populous counties in the market. The community of Bryan is very small relative to the size of the entire market, with all of Brazos County accounting for less than twenty percent of the market’s television households. Any potential owner of KYLE as a full-service television station also would have a difficult time obtaining a network affiliation. Affiliates of all four major networks currently operate in the market. Full-power television stations licensed to Waco also hold the market’s affiliations for MyNetworkTV, the CW, and Telemundo on their digital multicast channels.<sup>12</sup> Finally, KYLE might face significant competition from television stations licensed to the Houston, Texas DMA, the tenth largest television market, which is immediately adjacent to Brazos County. SP ComCorp points out that, for these reasons, the Commission in the 2004 Satellite Waiver found that KYLE would be unlikely to survive as a full-service television station and that continued operation of KYLE as a satellite of KWKT would serve the public interest. SP ComCorp argues that these same circumstances, which have not materially changed since 2004, justify granting the requested authority.

SP ComCorp states that KYLE has operated as a satellite station essentially since its inception, and that it has served the needs of the residents of Bryan admirably in that form. SP ComCorp points out

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<sup>5</sup> 2004 Satellite Waiver at 2, 1996 Satellite Waiver, 11 FCC Rcd at 15012. The facilities of KYLE and KWKT have not changed since the grant of the 2004 Satellite Waiver.

<sup>6</sup> 6 FCC Rcd 4212, 4215.

<sup>7</sup> 2004 Satellite Waiver at 2 (identifying KBTX as a satellite of KWTX); Broadcasting & Cable Yearbook 2007 at B-210.

<sup>8</sup> 2004 Satellite Waiver at 2; 1996 Satellite Waiver, 11 FCC Rcd at 15012-13.

<sup>9</sup> 1996 Satellite Waiver, 11 FCC Rcd at 15012.

<sup>10</sup> *Id.* at 15012-13.

<sup>11</sup> 2004 Satellite Waiver at 2.

<sup>12</sup> See “Waco-Temple-Bryan, TX Market Overview,” BIA Financial Network, Investing in Television 2007 1st Edition (2007); <http://www.kxxv.com>.

that the main studio for KWKT is accessible by U.S. highways and daily bus service and is reachable from Bryan by a toll-free telephone number. At or before consummation of the transactions contemplated by this application, SP ComCorp pledges that the licensee also will ensure that a copy of the station's public inspection file is available at a facility in Bryan that is generally accessible to the public during business hours. KYLE already maintains a local telephone number for Bryan, and it will continue to maintain this local number going forward. In addition, the licensee will mail copies of documents from the station's public inspection file to residents of Bryan upon telephonic request. The licensee will ensure that its local and toll-free telephone numbers are listed in local directories in Bryan and will provide these telephone numbers on the website it maintains for KWKT ([www.kwkt.com](http://www.kwkt.com)). This website will also provide information regarding the location of KYLE's public inspection file and procedures by which local residents in Bryan may access documents in the file and obtain other information about the Station.

Based upon our review of the materials submitted, we find that SP ComCorp has set forth information sufficient to warrant continued satellite operation for KYLE, and that such operation is in the public interest.

**ACCORDINGLY**, the request of SP ComCorp LLC for continued operation of KYLE(TV), Bryan, Texas, as a satellite of KWKT(TV), Waco, Texas, pursuant to the satellite exception to the duopoly rule, Section 73.3555, Note 5, of the Commission's Rules,<sup>13</sup> **IS GRANTED**.

**FURTHERMORE**, having determined that the applicant is qualified in all other respects, the above-captioned application for transfer of control of Comcorp of Bryan License Corp., licensee of KYLE(TV), Bryan, Texas, from Shareholders of Communications Corporation of America, Inc. (Debtor-in-Possession) to SP ComCorp LLC (File No. BTCCT-20070717ACZ) **IS GRANTED**.

Sincerely,

Barbara A. Kreisman  
Chief, Video Division  
Media Bureau

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<sup>13</sup> 47 C.F.R. § 73.3555, note 5.